

Review of Local Transactions with a Transfer Pricing Focus

The Guatemalan Superintendency of Tax Administration (SAT) is implementing a comprehensive strategy to enhance tax oversight and compliance. While the SAT is reviewing transfer pricing between local related parties, it's important to note that these actions are being taken without a formal legal framework specifically regulating such reviews locally. The tax administration is focusing on the substance and economic

reality of these transactions to increase revenue. However, the current reviews lack a specific regulatory framework that would allow for formal adjustments or sanctions based solely on transfer pricing criteria at the local level. In practice, these reviews aim to align operations with the arm's length principle. When transactions fail to meet the requirements of economic substance, the tax authorities may proceed with adjustments, arguing

that such transactions are designed to defraud the tax system and reduce the taxable base.

In this context, the SAT has identified practices among local companies that could be seen as attempts to minimize the group's overall tax burden. A common tactic is for a company registered under the Simplified Optional Regime to invoice another company within the same group registered under the Profits from Lucrative Activities Regime to reduce the group's global tax base. While this practice is legally permissible and there is no reason not to use it, it highlights the need for a thorough transfer pricing analysis among local related parties. This analysis should ensure that there are no artificially structured operations solely aimed at reducing the tax burden. The lack of a clear regulatory framework for these reviews means that, for now, such evaluations should be viewed more as recommendations than as formal legal requirements. This underscores the importance for taxpayers to maintain adequate documentation and clearly justify the conditions of their intercompany transactions to avoid future disputes with the tax authority.

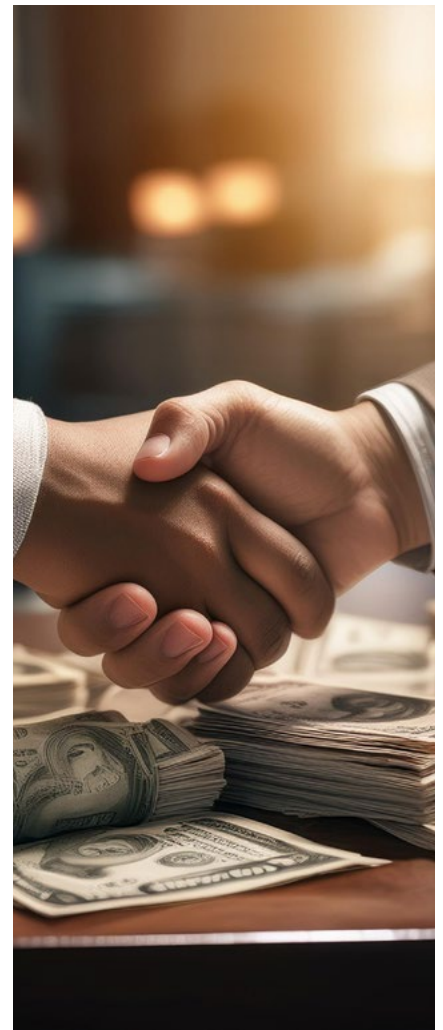
Transfer pricing reviews should not only focus on ensuring that transactions are conducted at market values but also on verifying the economic substance and reality of these transactions. Economic substance implies that transactions should reflect the true commercial and economic reality of the involved parties, beyond mere contractual formalities. It's essential that transactions between related parties demonstrate a genuine economic purpose and generate real commercial benefits, avoiding artificial structures designed solely to erode the taxable base.

The economic substance and reality of transactions should be rigorously

verified to ensure that no artificial structures are designed purely for tax benefits. This includes examining the nature of the activities conducted, the capacity and functionality of the involved parties, and the existence of tangible economic benefits resulting from the transactions.

For example, in a service transaction between related parties, it's important to verify that the services have indeed been provided and that they add economic value to the receiving entity. Taxpayers should be able to demonstrate that the costs associated with such services are justified and necessary for the company's operations, rather than merely being internal allocations without real economic substance. Similarly, in goods transactions, it's necessary to validate that the sales conditions and prices are consistent with market practices and reflect a genuine transfer of value.

A detailed functional analysis becomes a key tool for assessing economic substance and reality. This analysis should consider the functions performed, assets used, and risks assumed by each party in the transaction. Proper documentation of these aspects allows taxpayers to justify their transfer pricing policies and defend their position before the tax administration.



The value chain also plays a crucial role in demonstrating economic substance. Documenting and analyzing each link in the value chain allows companies to show how each entity within the group contributes to the overall value generated. This includes production, distribution, marketing, and other services that add value. Ensuring that each stage of the value chain is aligned with economic substance and that transactions between related parties reflect this value is essential. Documenting this value chain not only helps comply with tax regulations but also provides a solid foundation to justify the applied transfer pricing and ensure that all operations are supported by a coherent and transparent economic logic.

We would be pleased to assist you in reviewing everything related to the value chain, economic substance, and reality for transactions between local related parties, ensuring they are properly documented and prepared for a potential review by SAT.



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